

Commission on Victims in the Courts

Friday, May 11, 2012

DRAFT - Minutes

10:00 a.m. to 12:00 p.m.

State Courts Building

1501 W. Washington

Phoenix, AZ 85007

Conference Room 119 A&B

Present: Judge Ronald Reinstein, Chair, James Belanger, Michael Breeze, Judge Peter Cahill, Dr., Kathryn Coffman, Shelly Corzo, Sydney Davis, Karen Duffy, Captain Larry Farnsworth, Judge Elizabeth Finn, Leslie James, Keli Luther, Judge Evelyn Marez, Sergeant Jim Markey, Retired, Pam Moreton, Judge William O'Neil, Doug Pilcher, Judge Douglas Rayes, Judge Richard Weiss, Cindy Winn, Barbara Marshall (*proxy for Elizabeth Ortiz*), Libby Bissa (*proxy for JoAnn Del Colle*), Kristin Flores (*proxy for AG's Office*),

Absent/Excused: Daisy Flores, Judge Anna Montoya-Paez, and Judge Antonio Riojas, Jr.

Presenters/Guests: Chief Barbara Broderick (Probation), Betty McEntire (SOS Address Confidentiality Program), and Amy Love (AOC)

Staff: Carol Mitchell (AOC), Jerri Medina (AOC)

I. Regular Business

A. Welcome and Opening Remarks

The May 11, 2012 meeting of the Commission on Victims in the Courts (COVIC) was called to order by Chair, Honorable Ronald Reinstein, at 10:06 a.m.

Welcome newest members Cindy Winn and Sergeant James Markey, retired. Recognized David Sanders, from Pima County and Dan Levy, from the Attorney General's Office for their past service to COVIC.

Chair also recognized Keli Luther, who received the Distinguished Service Award from the Attorney General's Office for Victim Advocacy. She received the award during Victim's Rights Week events here in Arizona. And Barbara Broderick, Chief Probation Office in Maricopa County through the Adult Probation Office in which the department received the National Crime Victim Service Award for their financial compliance unit which collected over \$11 million dollars in restitution alone. This unit has become a model for other cities.

B. Approval of January 20, 2012 Minutes

The chair called for any omissions or corrections to the minutes from January 20, 2012, meeting of COVIC, there were none.

The draft minutes from the January 20, 2012, meeting of COVIC were presented for approval. Motion was seconded and passed.

II. BUSINESS ITEMS AND POTENTIAL ACTION ITEMS

A. Voice of the Victim-Probation perspective

Barbra Broderick, Chief of Maricopa Adult Probation discussed Restitution Court: A Victim Centered Approach to Restitution Collection in Maricopa County, Arizona article published in the Perspectives "Voice of the Victim" magazine. She is also a member of the Victim Issues Committee which was established over 20 years ago with the intent to bring the voice of the victim to the national level.

Chief Broderick requested any victim recommendations be brought to the American Probation and Parole Association (APPA) Victim Issues Committee enabling them to develop it on a statewide level. This committee is charged with increasing victim sensitivity among probation and parole professionals; relevant topics selected for APPA Training Institutes; and to develop a working paper.

APPA held a public listening session in 2010 at a national level on victim issues looking for input and to gain knowledge from these particular areas: crime victims and survivors; increase community corrections professionals' knowledge and appreciation of crime victims' and survivors' experiences; obtain input about how APPA and its member agencies can collaborate.

A recommendation report based on collective testimony at the APPA Public Hearing which identified these 10 areas:

1. Collaborative Planning
2. Public Safety Strategies
3. Identifying Information
4. Respect Cultural Diversity
5. Time to Prepare
6. National Automated System
7. Due Diligence
8. Victim Impact Statements
9. Developing Partnerships
10. Offender Accountability

The National APPA conference will be held in Phoenix in January 2013. Would COVIC like to have a panel at the conference on a particular topic? With the possibility of a group effort, we can put something together.

Discussion and questions:

Is there federal pending legislation that we can support that would allow restitution to be collected from federal tax refunds? Barbara Broderick will send that information to the chair for distribution to full committee.

What can you share with the victim and at what point? Barbara will send the information she has that is geared toward the probation department to the committee for their reference.

The new domestic violence strangulation program with Scottsdale healthcare and several police departments will bring awareness to this issue. It will have an impact on the probation department's future case load.

B. Address Confidentiality Program (ACP)

Ms. Betty McEntire presented the new Address Confidentiality Program that rolls out June 4, 2012. At that time they will start enrolling the domestic violence and sexual assault victims. Arizona is the twenty-seventh state in the United States to do this type of program. It is a self funded program through the fines imposed at the time of sentencing.

ACP will provide two critical services:

- 1) A legal substitute mailing address listed below
 - a. 1901 West Madison Street, Apt ###
- 2) A mail forwarding service

ACP will only release the victim's actual home address upon a court order. Any victim address information released to individuals or departments pursuant to a court order must produce their adopted written procedures that keep the victim's address confidential within their departments.

This system will allow victims and survivors to go into hiding for their safety with peace of mind that they can still get mail. There are specific criteria required to become enrolled in the program:

- Must have relocated within 90 days prior or plan to relocate 90 days after application date.
- Victim must maintain the connection with the courts or victim advocates.

They have a very flexible applicant assistance training program in which we provide training to victim advocates, shelters and can host an online webinar.

C. Legislative Session Update

Ms. Amy Love, Administrative Office of the Courts (AOC) Legislative Liaison, gave a preliminary update of bills that affect victims' rights from this legislative session.

For summaries of bills please see [APPENDIX A](#)

III. Old Business

A. Victim ID Protection Rule petition update

Hon. Ron Reinstein, Chair COVIC discussed activities of the Victim ID Protection workgroup and the petition timeline through the court. We have been working on the rule

petition to put victim initials or pseudonym identifier in lieu of full names on all written court documents for victims of sexual assault cases or minor victims only. We are expecting more comments from this next period and will bring them forward to review prior to final presentation of the petition to the court.

The workgroup decided to include families of deceased child victims thus allowing for the choice to opt out based on their families' needs. We have also included the use of victim identifiers for both transcripts and minute entries which were not in our preliminary petition.

This petition does not prohibit use of names within the court proceedings and victim's names will be on the "FTR" court records. It will be up to the prosecutors to implement redaction or blocking of victim's names based on the victim's known preferences.

This petition is not retroactive and most likely will be implemented sometime in 2013. COVIC may work with police departments at a later date on revision of the form 4 used by police. Work group may also look to compile a best practices educational document after the rule petition goes into effect for victim advocate groups, judicial and police reporting areas. Also discuss the "timing" of asking this question to victims during the information gathering process on whether they want to opt out of victim identification.

The chair called for approval of amended petition to move forward and requested if there were any comments or revisions requested; there were none.

The amended draft Victim ID Protection Rule petition was presented for approval. Motion was seconded and passed.

IV. New Business

A. Solicitation for future Commission issues and projects

(Moved to next COVIC meeting, ran out of time)

V. Other Business

A. Good of the Order/Call to the Public

Comments offered by Judge Finn on how can we do a better job of notifying victims who are not related to their abusers? She would like to see us develop a best practices guideline for standard victim notifications through some type of joint effort or a COVIC workgroup. Captain Larry Farnsworth would like to be a part of that plan with the sheriff's department and we can start putting some things together.

Anyone interested in information about the New Song Center for Grieving Children which is a peer group organization which helps kids through the grieving process, see Sydney Davis and she'll get information to you. It is age specific and geared toward any type of child going through the grief. It is a wonderful resource for children to know that there are others out there like them.

B. Motion: To adjourn at 12:25pm. Motion was seconded and passed.

C. Next Committee Meeting Date:

Friday, September 14, 2012

10:00 a.m. to 12:00 p.m.

State Courts Building, Room 119 A/B

1501 W. Washington St., Phoenix, AZ 85007

APPENDIX A
Commission on Victims in the Court
Legislative Update May 11, 2012

Chapter 65: transition programs; domestic violence (Sen. Biggs)

Prohibits an inmate convicted of a domestic violence offense from eligibility in the Arizona Department of Corrections transition program. Currently ADC has a transition program for eligible inmates who have not been convicted of a sexual or violent offense, arson or DUI.

Effective 3/21/12 Title affected: 31

Chapter 102: victim restitution; civil actions (Rep. Vogt)

An order of restitution in favor of a person does not preclude the person from bringing a separate civil action proving damages in excess of the amount of the restitution order that is actually paid. The statute previously read "...in excess of the amount of the restitution order," not only what was actually paid.

Title affected: 13

Chapter 153: crime advocates; privileged communications (Sen. Shooter)

Prohibits a crime victim advocate from disclosing any communication made by or with the victim including when others are present unless the victim provides written consent. Removes the ability for a crime victim advocate to disclose information regarding compensation or restitution unless the victim provides written consent.

Modifies the definition of "crime victim advocate".

A victim may provide written or verbal consent to allow the crime victim advocate to disclose any communication to a prosecutor or law enforcement agency. The information must be disclosed to the defense attorney only if it is exculpatory, rather than simply discoverable..

Titles affected: 8 and 13

Chapter 208: prisoners; payment for drug testing (Rep. Gowan)

Authorizes the Department of Corrections and the Board of Executive Clemency to require a person pay the reasonable costs for participation in a drug testing program as a condition of a person's probation (interstate compact), parole or community supervision.

Titles affected: 31, 41

Chapter 243: victims' rights; courtroom posting (Rep. Vogt)

Extends the requirement victims' rights be posted in each court to Justice of the Peace and Municipal Courts.

Statute Amended: A.R.S. § 13-4438

Title affected: 13

Chapter 268: victims' rights; criminal offense; interviews (Rep. Vogt)

Modifies the definition of *criminal offense* for victim's rights purposes to include a petty offense or a local criminal ordinance violation.

Titles affected: 8 and 13

Chapter 269: criminal restitution order (Rep. Vogt)

Requires the court to retain jurisdiction for the purposes of ordering, modifying and enforcing the manner in which court ordered restitution is paid until paid in full or completion of the defendant's sentence. Authorizes the Superior Court, in its discretion to enter a criminal restitution order at the time the defendant is ordered to pay restitution instead of at the completion of the defendant's sentence or probation. Requires the defendant to make all payments on a criminal restitution order issued by the Superior Court to the Clerk of the Court.

Resets the priority of distribution on a criminal restitution order to monies owed on the order first, followed by interest. Applicable to all criminal restitution orders in effect on April 1, 2013. Clarifies that the priority provisions for a CRO do not impact other court obligations imposed pursuant to law

Delayed effective date: April 1, 2013. Title affected: 13

Chapter 277: murder; domestic violence; inheritance (Rep. Mesnard)

Permits the decedent's estate to petition the court to establish a constructive trust on the property or estate of the killer in order to secure payment of all damages and judgments from conduct that resulted in the conviction of either spouse in which the other spouse or a child was the victim. Defines "felonious and intentional."

Title affected: 14

SB1127: child custody factors (Sen. Allen)

Makes enumerated changes to and reorganized the statutes governing custodial determinations. Changes references of "custody" to "legal decision-making" and references of "visitation" to "parenting time." Defines "in loco parentis," "joint legal decision-making," "legal decision-making," "legal parent," "parenting time," "sole legal decision-making," and "visitation."

Requires the court to adopt a parenting plan that is consistent with the child's best interests, provides for both parents to share legal decision-making and that maximizes each parents' respective parenting time. Prohibits the court from preferring one plan over the other because of the parent's or child's sex. Requires the court to consider whether one parent intentionally mislead the court to cause an unnecessary delay, to increase the cost of litigation, or to persuade the court to give a custody or a parenting time preference to that parent. Outlines what must be included in the proposed parenting plans. If the parents are unable to agree on any element to be included in a parenting plan then it is the court's responsibility to determine that element. Allows the court to determine other factors that are necessary to promote and protect the emotional and physical health of the child. Lists the factors that the court must consider when determining the level of decision-making.

Establishes a new section on third party rights. Lists examples of when the court must sanction a litigant for costs and reasonable attorney fees. Allows the court to take other actions against a litigant.

Title affected: 25